

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
- - - - - X

UNITED STATES OF AMERICA,                     :  
  
                                  -v-                     :  
  
   05 Cr. 1311 (PAC)  
MARVIN MCFOY,                                     :  
  
                          Defendant.                     :

- - - - - X

STATE OF NEW YORK                                 )  
COUNTY OF NEW YORK                             ) ss.:  
SOUTHERN DISTRICT OF NEW YORK                 )

JAMES LEE, a Special Agent with the Drug Enforcement Administration ("DEA"), hereby affirms under the penalties of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the case agent currently assigned to the McFoy investigation. I have been a DEA Agent since November 2004. As the case agent, in the course of my investigation, I have spoken with witnesses and with other law enforcement agents currently and previously assigned to the McFoy investigation, and I have reviewed various documents. Because this affirmation is being submitted for a limited purpose, I have not included details of every aspect of this investigation. Where conversations or statements are related herein or documents referenced, they are related in substance and in part.

2. Based on my direct participation in this investigation, my review of documents and conversations with law enforcement officers and other witnesses, I have learned the

following information concerning the investigation of Marvin McFoy, and more specifically, the DEA's interception of phone calls related to this investigation and the DEA's subsequent sealing of the wire recordings.

The DEA Investigation of McFoy

3. In or about the summer of 2005, Court-authorized interceptions began over a cellular telephone used by McFoy and over telephones used by others involved in a conspiracy to distribute narcotics. The orders which are relevant to a trial scheduled to address the charges against McFoy were signed in May and July of 2005. On May 11, 2005, the Honorable Thomas P. Griesa signed an order authorizing the DEA to intercept wire communications over a phone with assigned call number 646-894-6458 ("the 6458 Phone"). On May 31, 2005, the Honorable Denise Cote signed order authorizing the DEA to intercept wire communications over a phone with assigned call number (646)418-7792, which was used by defendant Marvin McFoy (the "McFoy Phone"). On July 5, 2005, the Honorable Sidney H. Stein signed an order authorizing the DEA to continue to intercept wire communications over the McFoy Phone and to intercept communications over a phone with assigned call number (908)652-1093 (the "Solo Phone"). During the course of these wiretaps, numerous narcotics-related conversations between McFoy and others were intercepted. The DEA also conducted extensive surveillance of the members of the conspiracy, including McFoy, and ultimately

seized over 400 grams of heroin from an individual connected to the conspiracy.

5. After initially being hired by the DEA in November 2004, I reported to the DEA Academy in Quantico, Virginia, where I received training in the laws, procedures, and practices applicable to work as a DEA Agent. I graduated from the Academy in March 2005, and was immediately stationed at the DEA New York Field Office. Shortly after reporting to the New York Field Office, I was assigned to the investigation of Marvin McFoy and others, as one of the two lead case agents. The other lead case agent was Special Agent Anton Kohut, who had worked for the DEA for approximately 5 years at that point.

6. My training at the academy was extensive, but the larger portion of my training occurred on the job, including training regarding the proper procedures for the management of a Title III wire.

7. The McFoy investigation was an extraordinarily complex one, involving multiple targets and multiple languages being spoken by the targets. I was responsible for securing, through agencies, translators of Ga, Twi, and Fante, who worked alongside DEA Agents in the wire interception room. During the wire interceptions, I was also responsible for managing the translators and I spent a significant amount of my time listening to phone calls as they were intercepted and ensuring that the minimization order was followed in the wire room. Access to the

wire room was strictly limited to authorized investigative personnel and approved translators.

8. The DEA terminated interception, pursuant to the May 11, 2005 Order, over the 6458 Phone on May 26, 2005. Just after interception ended, I requested that the DEA Manhattan wire room technicians prepare a magnetic optical disk containing all of the wire interceptions for the period. Based on my training and conversations with DEA technicians, I know that the information stored on magnetic optical disks which are prepared by the DEA technical staff cannot be altered once the disk is finalized. The disk is maintained in the technical control room until it is removed by the investigating agent for sealing. On May 26, 2005 I removed the disk from the control room and placed it in a locked container in my office. On June 3, 2005, I delivered the disk containing all of the interceptions over the 6458 Phone from May 11, 2005 through May 26, 2005 to Agent Kohut, who then delivered the disk to Assistant U.S. Attorney Virginia L. Chavez.<sup>1</sup> The same day, AUSA Romano, accompanied by Agent Kohut, presented an optical disk containing all of the wire communications intercepted over the 6458 Phone, pursuant to the May 11, 2005 Order, to the Honorable Denis Cote. Judge Cote ordered that the disk and the application for sealing be sealed,

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<sup>1</sup> AUSA Chavez changed her name to Virginia Chavez Romano December 2005. She is referred to elsewhere in this affidavit as AUSA Romano.

and that the former be held in the custody of the DEA. Later, Agent Kohut brought the disk back to the DEA Evidence Vault in Manhattan and delivered it to the evidence clerks. After being sealed again in a DEA evidence envelope, the disk was stored with the DEA evidence technicians under an identifying control number. Access to the room where all sealed DEA magnetic optical disks are stored is tightly controlled and is limited to the appropriate staff. All access to a particular item stored in the vault must be logged and verified by the evidence technicians.

9. On June 1, 2005, the DEA began intercepting calls over the McFoy Phone pursuant to Judge Cote's May 31, 2005 Order. Pursuant to a July 5, 2005 Order signed by Judge Stein, authorizing continued interception, the DEA continued to intercept wire communications over the McFoy Phone beyond the period initially authorized by Judge Cote's May 31, 2005 Order, and began interceptions over the Solo Phone. On July 5, 2005, I removed a disk containing all of the interceptions over the McFoy phone pursuant to the June 1, 2005 Order from the DEA control room and from the DEA control room and placed it in a locked container in my office in DEA headquarters. On July 19, 2005, I delivered the magnetic optical disk to Agent David Campbell, who then delivered the disk to AUSA Romano. On July 19, 2005, AUSA Romano, accompanied by Agent Campbell, presented the disk containing all of the wire communications intercepted over the McFoy Phone, pursuant to the June 1, 2005 Order, to the Honorable

George B. Daniels. Id. Judge Daniels ordered that the disk and the application for sealing be sealed, and that the former be held in the custody of the DEA. Id.

10. On August 12, 2005, Agent Kohut obtained a magnetic disk containing all of the interceptions for both the McFoy Phone and the Solo Phone pursuant to the July 5, 2005 Order, and placed it in a locked container in his office. On August 18, 2005, Agent Kohut delivered the disk to me and the same day I presented it to AUSA Romano, and then accompanied her to Judge Karas's chambers, where the disk was sealed. I then returned the disk to the DEA Evidence Vault.

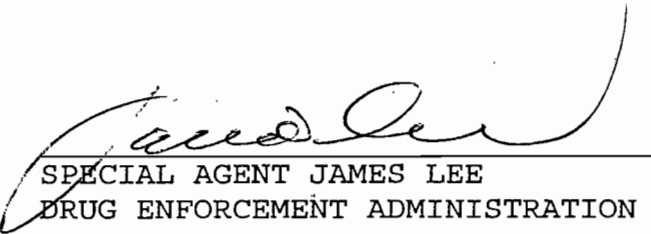
11. On September 20, 2005, I obtained a magnetic disk from the DEA control room containing all of the interceptions for both the McFoy Phone and the Solo Phone pursuant to the August 18, 2005 Order, and placed it in a locked container in my office. On September 29, 2005, I removed the disk from the locked container and delivered the disk to AUSA Romano, and then accompanied her to Judge Berman's chambers, where the disk was sealed. I then returned the disk to the DEA Evidence Vault.



I declare under penalties of perjury that the foregoing  
is true and correct, pursuant to 28 U.S.C. § 1746.

New York, New York

Dated: July 15, 2008



SPECIAL AGENT JAMES LEE  
DRUG ENFORCEMENT ADMINISTRATION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, :

-v- :

05 Cr. 1311 (PAC)

MARVIN MCFOY, :

Defendant. :

- - - - - X

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:  
SOUTHERN DISTRICT OF NEW YORK )

VIRGINIA CHAVEZ ROMANO, an Assistant United States Attorney in the Southern District of New York, hereby affirms under the penalties of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an Assistant United States Attorney in the Southern District of New York, where I have been employed since 2002. In the Spring and Summer of 2005, I was the AUSA with primary responsibility for an investigation into narcotics trafficking involving Marvin McFoy and others. Because this affirmation is being submitted for a limited purpose, I have not included details of every aspect of this investigation. Where conversations or statements are related herein or documents referenced, they are related in substance and in part.

2. At several points during the summer of 2005, I presented magnetic optical disks containing recordings of conversations intercepted over authorized wiretaps of McFoy and



others, to the designated Part I Judges in the Southern District of New York. The time period of the McFoy investigation was one in which the caseload for which I was personally responsible was extraordinarily high. As I managed the investigation, I simultaneously was managing a number of other complex investigations. Among the cases I was handling were the following:

3. In May and June of 2005, I was one of the lead prosecutors responsible for "Operation Mallorca," an investigation into an international narcotics trafficking organization that resulted, in June 2005, in the arrests of approximately 40 individuals in the United States and Colombia. In June of 2005, in connection with the arrest, I traveled to Colombia to, among other things, review evidence that was gathered there and meet with law enforcement.

4. During this same time period, I was also solely responsible for supervising two complex wire investigations apart from the McFoy investigation. The first was "Operation Big Papi," an investigation by the DEA into narcotics trafficking that involved a number of wire interceptions stretching from March of 2005 through approximately July of 2005. The Second was "Operation Highstep," a DEA investigation into a heroin trafficking organization based in the United States and Colombia, involving a number of wire interceptions that lasted from approximately July of 2005 to September of 2005. I simultaneously

supervised the McFoy investigation. Supervising each of these investigations required a great deal of time and attention, including constant review of linesheets being produced, production of periodic reports for each of the phone lines being monitored, and frequent communication with the Department of Justice's office of Enforcement Operations to obtain authorizations for continued monitoring. During the time period of each wire, I was responsible for, among other things, ensuring that the monitoring agents complied with the courts' minimization instructions, reviewing the intercepted calls on a regular basis, and preparing periodic reports for the authorizing Judge.

5. During the summer of 2005, I was also preparing for two trials, in United States v. Duran Colon, 04 Cr. 811, and United States v. Londono, 04 Cr. 235 scheduled for August 1, 2005, and August 15, 2005, respectively. In the first week of August, I prosecuted the trial in Colon. In addition, while I prepared for the trial in Londono, the defendant in that case entered a guilty plea shortly before the scheduled trial date.

6. Throughout the entirety of the McFoy investigation, I recall making my best efforts to comply with 18 U.S.C § 2518 and all other statutory requirements.

I declare under penalties of perjury that the foregoing  
is true and correct, pursuant to 28 U.S.C. § 1746.

New York, New York

Dated: July 16, 2008

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

AUSA VIRGINIA CHAVEZ ROMANO  
UNITED STATES ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF NEW YORK

01-04-0021

174

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

IN THE MATTER OF THE APPLICATION :

OF THE UNITED STATES OF AMERICA :

APPLICATION

AND ORDER

FOR AUTHORIZATION TO INTERCEPT :

WIRE COMMUNICATIONS OCCURRING :

OVER THE CELLULAR TELEPHONE BEARING :

INTERNATIONAL MOBIL SUBSCRIBER :

INFORMATION NUMBER 310260203390879 :

AND ASSIGNED CALL NUMBER (646) 894-6458:

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1. The United States of America, by and through David N. Kelley, United States Attorney for the Southern District of New York, and Virginia L. Chavez, Assistant United States Attorney, of counsel, hereby makes this application to this Court for an Order, pursuant to the provisions of Title 18, United States Code, Section 2518(8)(a), sealing the attached disk reflecting the interception of wire communications from on or about May 11, 2005 to on or about May 26, 2005, occurring over the cellular telephone bearing International Mobil Subscriber Information Number 310260203390879 and assigned call number (646) 894-6458, which communications were intercepted pursuant to an Order signed by the Honorable Thomas P.

Griesa, United States District Judge for the Southern District of New York, on May 11, 2005.


2. The Government further requests that this Court direct, pursuant to the provisions of Section 2518(8)(a) of Title 18, United States Code, that, after sealing, the above-described original audio recordings in the above-captioned matter be held in the custody of the Drug Enforcement Administration.

3. The Government further requests that this Court direct that this application and Order be sealed and placed in the custody of the United States Attorney's Office for the Southern District of New York until such time as the Court or another judge of competent jurisdiction directs otherwise.

Dated: New York, New York  
June 3, 2005

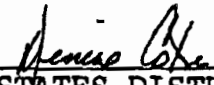
DAVID N. KELLEY  
United States Attorney  
Southern District of New York

By:

  
VIRGINIA L. CHAVEZ  
Assistant U.S. Attorney  
Southern District of New York  
Tel: (212) 637-1037

IT IS SO ORDERED:

Dated: New York, New York  
June 3, 2005

  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

IN THE MATTER OF THE APPLICATION :

OF THE UNITED STATES OF AMERICA : APPLICATION  
AND ORDER

FOR AUTHORIZATION TO INTERCEPT :

WIRE COMMUNICATIONS OCCURRING :

OVER THE CELLULAR TELEPHONE BEARING :

ELECTRONIC SERIAL NUMBER F7E89382 :

AND ASSIGNED CALL NUMBER (646) 418-7792 :

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1. The United States of America, by and through David N. Kelley, United States Attorney for the Southern District of New York, and Virginia L. Chavez, Assistant United States Attorney, of counsel, hereby makes this application to this Court for an Order, pursuant to the provisions of Title 18, United States Code, Section 2518(8)(a), sealing the attached disk reflecting the interception of wire communications from on or about June 1, 2005 to on or about June 30, 2005, occurring over the cellular telephone bearing Electronic Serial Number F7E89382 and assigned call number (646) 418-7792, which communications were intercepted pursuant to an Order signed by the Honorable Denise L. Cote, United States District Judge for the Southern District of New York, on May 31, 2005.



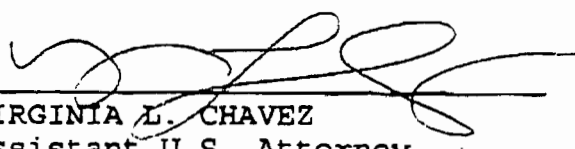
2. The Government further requests that this Court direct, pursuant to the provisions of Section 2518(8)(a) of Title 18, United States Code, that, after sealing, the above-described original audio recordings in the above-captioned matter be held in the custody of the Drug Enforcement Administration.

3. The Government further requests that this Court direct that this application and Order be sealed and placed in the custody of the United States Attorney's Office for the Southern District of New York until such time as the Court or another judge of competent jurisdiction directs otherwise.

Dated: New York, New York  
July 19, 2005

DAVID N. KELLEY  
United States Attorney  
Southern District of New York

By:

  
VIRGINIA L. CHAVEZ  
Assistant U.S. Attorney  
Southern District of New York  
Tel: (212) 637-1037

IT IS SO ORDERED:

Dated: New York, New York  
July 19, 2005

  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK

C-04-0001  
N-77

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

TO BE FILED UNDER SEAL

IN THE MATTER OF THE APPLICATION :  
OF THE UNITED STATES OF AMERICA : APPLICATION  
FOR AUTHORIZATION TO INTERCEPT : AND ORDER  
WIRE COMMUNICATIONS OCCURRING :  
OVER THE CELLULAR TELEPHONE BEARING :  
ELECTRONIC SERIAL NUMBER F7E89382 :  
AND ASSIGNED CALL NUMBER (646) 418-7792; :  
AND (2) THE CELLULAR TELEPHONE BEARING :  
INTERNATIONAL MOBILE SUBSCRIBER :  
INFORMATION ("IMSI") NUMBER :  
310410037471092 AND ASSIGNED CALL NUMBER :  
(908) 652-1093 :  
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1. The United States of America, by and through David N. Kelley, United States Attorney for the Southern District of New York, and Virginia L. Chavez, Assistant United States Attorney, of counsel, hereby makes this application to this Court for an Order, pursuant to the provisions of Title 18, United States Code, Section 2518(8) (a), sealing the following three disks, which are attached hereto: (1) one disk reflecting the interception of wire

communications from on or about July 5, 2005 to on or about August 4, 2005, occurring over the cellular telephone bearing Electronic Serial Number F7E89382 and assigned call number (646) 418-7792, which communications were intercepted pursuant to an Order signed by the Honorable Sidney H. Stein, United States District Judge for the Southern District of New York, on July 5, 2005 (the "July 5, 2005 Order"); and (2) two disks reflecting the interception of wire communications from on or about July 7, 2005 to on or about August 6, 2005, occurring over the cellular telephone bearing International Mobile Subscriber Identity number 310410037471092 and assigned call number (908) 652-1093, which communications were intercepted pursuant to the July 5, 2005 Order.<sup>1</sup>

2. The Government further requests that this Court direct, pursuant to the provisions of Section 2518(8)(a) of Title 18, United States Code, that, after sealing, the above-described original audio recordings in the above-captioned matter be held in the custody of the Drug Enforcement Administration.

3. The Government further requests that this Court direct that this application and Order be sealed and placed in the custody of the United States Attorney's Office for the Southern

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<sup>1</sup> The two disks corresponding to the cellular telephone number assigned call number (908) 652-1093 incorrectly indicate that interceptions began on July 5, 2005. As indicated above, interceptions over this number began on or about July 7, 2005.

District of New York until such time as the Court or another judge of competent jurisdiction directs otherwise.

Dated: New York, New York  
August 18, 2005

DAVID N. KELLEY  
United States Attorney  
Southern District of New York

By: 

VIRGINIA L. CHAVEZ  
Assistant U.S. Attorney  
Southern District of New York  
Tel: (212) 637-1037

IT IS SO ORDERED:

Dated: New York, New York  
August 18, 2005

  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK

C1-04-0021

N-81

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

IN THE MATTER OF THE APPLICATION :

OF THE UNITED STATES OF AMERICA : APPLICATION  
AND ORDER

FOR AUTHORIZATION TO INTERCEPT :

WIRE COMMUNICATIONS OCCURRING :

OVER THE CELLULAR TELEPHONE BEARING :

ELECTRONIC SERIAL NUMBER F7E89382 :

AND ASSIGNED CALL NUMBER (646) 418-7792;:

AND (2) THE CELLULAR TELEPHONE BEARING :

INTERNATIONAL MOBILE SUBSCRIBER :

INFORMATION ("IMSI") NUMBER :

310410037471092 AND ASSIGNED CALL NUMBER:

(908) 652-1093 :

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1. The United States of America, by and through Michael J. Garcia, United States Attorney for the Southern District of New York, and Virginia L. Chavez, Assistant United States Attorney, of counsel, hereby makes this application to this Court for an Order, pursuant to the provisions of Title 18, United States Code, Section 2518(8)(a), sealing two disks, which are attached hereto, reflecting the interception of wire communications from on or about

August 18, 2005 to on or about September 16, 2005, occurring over (1) the cellular telephone bearing Electronic Serial Number F7E89382 and assigned call number (646) 418-7792; and (2) the cellular telephone bearing International Mobile Subscriber Identity number 310410037471092 and assigned call number (908) 652-1093, which communications were intercepted pursuant to an order dated August 18, 2005, signed by the Honorable Kenneth M. Karas.

2. The Government further requests that this Court direct, pursuant to the provisions of Section 2518(8)(a) of Title 18, United States Code, that, after sealing, the above-described original audio recordings in the above-captioned matter be held in the custody of the Drug Enforcement Administration.

3. The Government further requests that this Court direct that this application and Order be sealed and placed in the custody of the United States Attorney's Office for the Southern District of New York until such time as the Court or another judge



MAY 17 1999 21:46 FR 2123372840


2123372840 TO 512126372887

of competent jurisdiction directs otherwise.

Dated: New York, New York  
September 29, 2005

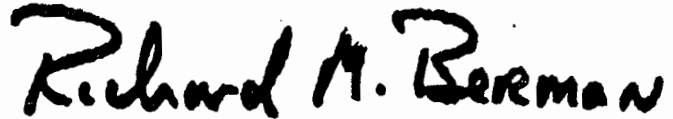
MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York

By:

  
VIRGINIA L. CHAVEZ  
Assistant U.S. Attorney  
Southern District of New York  
Tel: (212) 637-1037

IT IS SO ORDERED:

Dated: New York, New York  
September 29, 2005



UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK

ECF

**U.S. District Court  
United States District Court for the Southern District of New York (Foley Square)  
CRIMINAL DOCKET FOR CASE #: 1:05-cr-01311-PAC All Defendants**

Case title: USA v. McFoy

Date Filed: 12/15/2005

Assigned to: Judge Paul A. Crotty

**Defendant (1)**

**Marvin McFoy**  
*also known as*  
Ken

represented by **Robert M. Baum**  
Federal Defenders of New York Inc.  
(NYC)  
52 Duane Street  
10th Floor  
New York, NY 10007  
212-417-8700  
Fax: 212-571-0392  
Email: robert\_baum@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or  
Community Defender Appointment*

**Pending Counts**

21:846=ND.F CONSPIRACY TO  
DISTRIBUTE NARCOTICS  
(1)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

---

Assigned to: Judge Paul A. Crotty

**Defendant (2)**

**Solomon Kwabena Buabeng**

*also known as*

Solo

*also known as*

Ben Jonah

**Pending Counts**

21:846=ND.F CONSPIRACY TO  
DISTRIBUTE NARCOTICS  
(1)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

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Assigned to: Judge Paul A. Crotty

**Defendant (3)**

**Ansong Mensah**

*also known as*

Joe

**Pending Counts**

21:846=ND.F CONSPIRACY TO  
DISTRIBUTE NARCOTICS  
(1)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

**Disposition**

None

**Highest Offense Level (Terminated)**

None

**Complaints**

**Disposition**

None

**Plaintiff**

USA

represented by **Christine Y. Wong**

U.S. Attorney's Office, SDNY (St  
Andrew's)

One St. Andrew's Plaza

New York, NY 10007

(212) 637-2460

Fax: (212) 637-2527

Email: USANYS.ECF@USDOJ.GOV

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Randall Wade Jackson**

U.S. Attorney's Office, SDNY

(Chambers Street)

86 Chambers Street

New York, NY 10007

(212)-637-1029

Fax: (212)-637-2937

Email: randall.jackson@usdoj.gov

*ATTORNEY TO BE NOTICED*

| Date Filed | #        | Docket Text  |
|------------|----------|--|
| 12/15/2005 | <u>1</u> | SEALED INDICTMENT as to Sealed Defendant 1 (1) count(s) 1, Sealed Defendant 2 (2) count(s) 1, Sealed Defendant 3 (3) count(s) 1. (jm) (Entered: 11/05/2007)            |
| 11/05/2007 | <u>2</u> | Order to Unseal Indictment as to Sealed Defendant 1, Sealed Defendant 2, Sealed Defendant 3.. (Signed by Judge James C. Francis on 11/05/07)(jm) (Entered: 11/05/2007) |
| 11/05/2007 |          | INDICTMENT UNSEALED as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. (jm) (Entered: 11/05/2007)   |
| 11/05/2007 |          | Case Designated ECF as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. (jm) (Entered: 11/05/2007)   |
|            |          |  |

|            |          |   |
|------------|----------|---|
| 11/05/2007 | <u>3</u> | Arrest Warrant Issued as to Marvin McFoy. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)   |
| 11/05/2007 | <u>4</u> | Arrest Warrant Issued as to Solomon Kwabena Buabeng. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)  |
| 11/05/2007 | <u>5</u> | Arrest Warrant Issued as to Ansong Mensah. (Signed by Judge James C. Francis on 12/15/05.) (Document originally filed under seal on 12/15/05) (jm) (Entered: 11/05/2007)  |
| 11/05/2007 |          | Attorney update in case as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah. Attorney Christine Y. Wong for USA added.. (jm) (Entered: 11/05/2007)   |
| 11/05/2007 |          | Case as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah ASSIGNED to Judge Paul A. Crotty. Judge Unassigned no longer assigned to the case.. (jm) (Entered: 11/05/2007)  |
| 11/05/2007 |          | Arrest of Marvin McFoy. (pr) (Entered: 11/08/2007)  |
| 11/05/2007 |          | Minute Entry for proceedings held before Judge James C. Francis :Initial Appearance as to Marvin McFoy held on 11/5/2007. Deft pres w/atty Robert Baum (Legal Aid); AUSA Christine Wong pres. Detention hearing scheduled at deft's request for 11/7/07 @ 11:30am. (pr) (Entered: 11/08/2007)   |
| 11/05/2007 |          | ORAL ORDER as to Marvin McFoy. Detention Hearing set for 11/7/2007 at 11:30 AM. (pr) (Entered: 11/08/2007)  |
| 11/05/2007 |          | Attorney update in case as to Marvin McFoy. Attorney Robert M. Baum for Marvin McFoy added.. (pr) (Entered: 11/08/2007)   |
| 11/05/2007 | <u>6</u> | CJA 23 Financial Affidavit by Marvin McFoy. (Signed by Judge James C. Francis )(Legal Aid Robert Baum)(pr) (Entered: 11/08/2007)  |
| 11/07/2007 |          | Set/Reset Hearings as to Marvin McFoy (Set via e-mail by chambers - Marlon Ovalles - CRD): Initial Pretrial Conference set for 11/13/2007 at 02:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty. (mov) (Entered: 11/08/2007)   |
| 11/07/2007 |          | Minute Entry for proceedings held before Judge James C. Francis :Arraignment as to Marvin McFoy (1) Count 1 held on 11/7/2007 and Bond Hearing as to Marvin McFoy held on 11/7/2007. Dft McFoy present w/atty Robert Baum. AUSA Christine Wong present. AGREED BAIL PACKAGE: \$100,000 PRB, 4 FRPs, travel restricted to SDNY/ENDY, surrender travel documents (and no new applications); strict pretrial, curfew 9 p.m. to 6 a.m. Dft ARRAIGNED and plea entered of not guilty. PTC set for 11/15/07. Time excluded on dft's consent. (ja) (Entered: 11/13/2007) |
| 11/08/2007 | <u>7</u> | PRB Bond Entered as to Marvin McFoy in amount of \$ 100,000. Co-signed by four financially responsible person's. Travel restricted to SDNY, EDNY. Surrender travel documents (& No new applications). Strict pretrial supervision. Curfew 9pm - 6am. (jw) (Entered: 11/16/2007)   |



|            |           |  |
|------------|-----------|--|
| 11/09/2007 | <u>8</u>  | ADVICE OF PENALTIES AND SANCTIONS as to Marvin McFoy. (jw) (Entered: 11/16/2007)   |
| 11/13/2007 |           | Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Christine Wang present. Court Reporter Michelle. T. Bulkley present. The next conference is scheduled for Thursday, January 3, 2008 at 2:45 p.m in Courtroom 20-C. The Government moved to exclude time pursuant to 18 U.S.C Section 3161 from November 13, 2007 through January 3, 2008 and the defendant consented. In the interest of justice, the Court excludes the period of time from November 13 2007 to January 3, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 11/13/2007, As to Marvin McFoy Pretrial Conference set for 1/3/2008 at 02:45 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty. (mov) (Entered: 11/13/2007)   |
| 11/20/2007 | <u>9</u>  | ENDORSED LETTER as to Marvin McFoy addressed to Judge Paul A. Crotty from Christine Y. Wong (response from defense counsel, Robert M. Baum attached as pages 3 and 4 of the pdf) dated 11/17/2007 (response by defense counsel, dated 11/17/07) re: Bail: The Governments inability to monitor Mr. McFoy's 9 PM to 6 AM curfew as a condition of bail. ENDORSEMENT: Bail conditions will be modified so that Mr. McFoy must report two times per week to pretrial services in person. Additionally he must call in three times per week from his cell phone and state where he is. If PTS finds that any telephone report is inaccurate his bail will be revoked. So Ordered. Copy E-mailed By Chambers To: PTSO Mildred Santana (Signed by Judge Paul A. Crotty on 11/20/2007) (mov) (Entered: 11/20/2007)  |
| 12/18/2007 | <u>10</u> | MEMO ENDORSEMENT as to Marvin McFoy on 'Petition for Action on Conditions of Pretrial Release' addressed to the Court from Mildred Santana, U.S. Pretrial Services Officer, dated 12/12/07 re: Praying that the Court will order that the deft's bail be modified to include electronic monitoring. ORDER OF COURT: Considered and ordered this 18th day of December, 2007 and ordered filed and made a part of the records in the above case. (Signed by Judge Paul A. Crotty on 12/18/07)(bw) (Entered: 12/18/2007)  |
| 01/03/2008 |           | Minute Entry for proceedings held before Judge Paul A. Crotty:Pretrial Conference as to Marvin McFoy held on 1/3/2008, as to Marvin McFoy ( Pretrial Conference set for 1/24/2008 at 01:45 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.)Defendant present with atty AFD Robert M. Baum. AUSA Christine Wong present by telephone. AUSA Jonathan B. New present in court. Court Reporter Carol Gangle present. The next conference will go forward on Thursday, January 24, 2008 at 1:45pm in Courtroom 20-C. At the next conference, defense counsel will report the status of discovery review or inform the Court of any contemplated motion(s) that might be filed. Upon no objection, and in the interest of justice, the Court excludes the period of time from January 3, 2008 through January 24, 2008, under the Speedy Trial Act. All bail conditions remain in effect. See transcript for compete details of this proceeding. (jw) (Entered: 01/08/2008) |



|            |           |  |
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| 01/23/2008 |           | Calendar Entry: <b>**Conference Reminder**</b> : Pretrial Conference scheduled for Thursday, January 24, 2008 at 1:45 PM in Courtroom 20-C (Marlon Ovalles - CRD). (mov) (Entered: 01/23/2008)   |
| 01/24/2008 |           | Minute Entry For proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Christine Wang present. Court Reporter Karen Gorloski present. The briefing schedule on defendants' motion to dismiss (constitutional speedy trial motion pursuant to the 6th Amendment) is as follows: Motion by 02/19/08, Opposition by 02/26/08 and Reply by 03/04/2008. The Court will contact the parties in the event oral argument is necessary. The next conference is scheduled for Tuesday, March 25, 2008 at 3:00 PM in Courtroom 20-C. In the interest of justice, pursuant to 18 U.S.C Section 3161, the Court excludes the period of time from January 24, 2008 through March 25, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 1/24/2008, As to Marvin McFoy( Pretrial Conference set for 3/25/2008 at 03:00 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 01/24/2008) |
| 02/19/2008 | <u>11</u> | MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . Document filed by Marvin McFoy. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit)(Baum, Robert) (Entered: 02/19/2008)   |
| 02/21/2008 | <u>12</u> | ENDORSED LETTER as to Marvin McFoy addressed to Judge Crotty from AUSA Christine Y. Wong dated 2/20/08 re: submitted to request two additional weeks, until 3/11/08, to respond to def't's motion to dismiss the indictment and for additional discovery. ENDORSEMENT: So Ordered. (Signed by Judge Paul A. Crotty on 2/21/08)(bw) (Entered: 02/21/2008)   |
| 03/04/2008 | <u>13</u> | ENDORSED LETTER as to Marvin McFoy addressed to Judge Paul A. Crotty from Christine Y. Wong dated February 28, 2008 re: Request that Pre-Trial Services disclose the report produced regarding the above-referenced defendant. Defendant opposes this request. ENDORSEMENT: The government's motion is granted and defendant's objection of February 29, 2008 is overruled. It is appropriate to release the Pre Trial Report in the circumstances present here. See U.S -v- Ramos 2008 WL 376381 (2d Cir Feb 11, 2008). Pretrial Services should disclose the report in response to the Gov't demand. So Ordered. (Signed by Judge Paul A. Crotty on March 4, 2008)(mov) (Entered: 03/04/2008)  |
| 03/07/2008 | <u>14</u> | NOTICE OF ATTORNEY APPEARANCE Randall Wade Jackson appearing for USA. (Jackson, Randall) (Entered: 03/07/2008)   |
| 03/11/2008 | <u>15</u> | MEMORANDUM in Opposition by USA as to Marvin McFoy re <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. (Attachments: # <u>1</u> Affirmation of Special Agent James Lee)(Jackson, Randall) (Entered: 03/11/2008)   |
| 03/18/2008 | <u>16</u> | REPLY MEMORANDUM OF LAW in Support as to Marvin McFoy re: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. (Attachments: # <u>1</u> Exhibit Exhibit F, # <u>2</u> Exhibit Exhibit G, # <u>3</u> Exhibit Exhibit H, # <u>4</u> Exhibit Exhibit I)(Baum, Robert) (Entered: 03/18/2008)  |

|            |           |   |
|------------|-----------|---|
| 03/25/2008 |           | Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Randall W. Jackson present. Court Reporter Linda Fisher present. Oral argument held on defendant's motion to dismiss. The Court denied the motion on the record. The Government shall respond to the defendant's discovery request by 04/01/08 and the defendant's reply by 04/08/2008. The next conference is scheduled for 04/17/2008 at 3:30 PM. In the interest of justice, the Court excludes the period of time from March 25, 2008 to April 17, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Oral Argument as to Marvin McFoy held on 3/25/2008 re: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . filed by Marvin McFoy, Motions terminated as to Marvin McFoy: <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> . filed by Marvin McFoy, As to Marvin McFoy ( Pretrial Conference set for 4/17/2008 at 03:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 03/25/2008)  |
| 04/01/2008 | <u>17</u> | MEMORANDUM in Opposition by USA as to Marvin McFoy re <u>11</u> MOTION to Dismiss on Speedy Trial <i>and for Discovery</i> .. <i>Discovery Opposition Memorandum</i> (Attachments: # <u>1</u> Affidavit of Special Agent James Lee) (Jackson, Randall) (Entered: 04/01/2008)  |
| 04/17/2008 |           | Minute Entry for proceedings held before Judge Paul A. Crotty: Defendant present with attorney AFD Robert M. Baum. AUSA Randall W. Jackson present. Court Reporter Toni Stanley present. The defendant withdrew his pending discovery request on the record. The final pretrial conference is scheduled for Monday July 14, 2008 at 2:30 PM in courtroom 20-C. The jury trial in this matter is scheduled for Monday, July 21, 2008 at 9:30 AM in courtroom 20-C. Any motions in limine should be made in advance of the final pretrial conference date. The Government moved to exclude time pursuant to 18 U.S.C Section 3161 from April 17, 2008 through July 21, 2008 and the defendant consented. In the interest of justice, the Court excludes the period of time from April 17, 2008 to July 21, 2008, under the Speedy Trial Act. All current bail conditions remain in effect. See transcript for complete details of this proceeding. Pretrial Conference as to Marvin McFoy held on 4/17/2008, As to Marvin McFoy (Pretrial Conference set for 7/14/2008 at 02:30 PM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty., Jury Trial set for 7/21/2008 at 09:30 AM in Courtroom 20C, 500 Pearl Street, New York, NY 10007 before Judge Paul A. Crotty.) (mov) (Entered: 04/22/2008) |
| 07/11/2008 | <u>18</u> | MEMORANDUM OF LAW by USA as to Marvin McFoy, Solomon Kwabena Buabeng, Ansong Mensah <i>in Opposition to Marvin McFoy's Motion to Preclude and Requesting a Hearing</i> . (Attachments: # <u>1</u> Affidavit of James Lee) (Jackson, Randall) (Entered: 07/11/2008)  |
| 07/14/2008 | <u>19</u> | Proposed Jury Instructions by Marvin McFoy. (Shroff, Sabrina) (Entered: 07/14/2008)   |
| 07/14/2008 | <u>20</u> | Proposed Voir Dire Questions by Marvin McFoy. (Shroff, Sabrina) (Entered: 07/14/2008)   |
|            |           |   |

|            |           |  |
|------------|-----------|--|
| 07/14/2008 | <u>21</u> | Request To Charge by USA as to Marvin McFoy. (Jackson, Randall) (Entered: 07/14/2008)            |
| 07/14/2008 | <u>22</u> | Proposed Voir Dire Questions by USA as to Marvin McFoy. (Jackson, Randall) (Entered: 07/14/2008) |

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**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

December 3, 2007

Robert Baum, Esq.  
Federal Defenders of New York, Inc.  
52 Duane Street  
11<sup>th</sup> Floor  
New York, New York 1007

Re: United States v. Marvin McFoy  
05 Cr. 1311 (PAC)

Dear Mr. Baum:

This letter provides discovery pursuant to Rule 16(a) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), and seeks reciprocal discovery.

Disclosure By the Government

Based on your request for discovery in this case, I have enclosed copies of the following materials, which are stamped as follows:

|   |         |
|---|---------|
| Indictment  | 1-4     |
| NYPD Lab Report   | 5       |
| Marshals intake form and photo for Marvin McFoy                                     | 6-8     |
| Wire applications and other related documents for (646) 894-6458                    | 9-94    |
| Wire applications and other related documents for (646) 418-7792 and (908) 652-1093 | 95-295  |
| Wire applications and other related documents for (646) 418-7792                    | 296-391 |
| Line sheets for calls most relevant to McFoy  | 392-443 |



Compact disks containing line sheets and recorded phone calls for calls intercepted pursuant to above-referenced phone numbers.

If you wish to inspect any of the evidence, please let me know and I will make arrangements for you to do so.

The Government recognizes its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. To date, the Government is unaware of any *Brady* material regarding your client, but will provide timely disclosure if any such material comes to light.

The Government will provide material under *Giglio v. United States*, 405 U.S. 150, 154 (1972), and its progeny, in a timely manner prior to trial.

#### Disclosure By the Defendant

In light of your request for the foregoing discovery, the Government hereby requests reciprocal discovery under Fed. R. Crim. P. 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defendant disclose prior statements of witnesses he will call to testify. See Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

#### Sentence Reduction for Acceptance of Responsibility

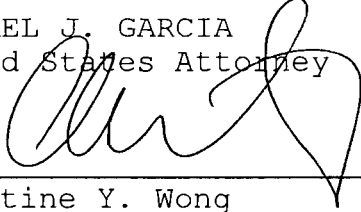
This Office will oppose the additional one-point reduction under the Sentencing Guidelines available for defendants who plead

prior to the Government's initiation of trial preparations, U.S.S.G. § 3E1.1(b)(2), in the event your client has not entered a plea of guilty two weeks prior to trial. We will follow this policy whether or not suppression or other pretrial motions remain outstanding after this date and even if the trial date has not been announced by the Court two weeks in advance of the trial.]

Please contact me at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request.

Very truly yours,

MICHAEL J. GARCIA  
United States Attorney

By:   
Christine Y. Wong  
Assistant United States Attorney  
(212) 637-2460



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1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----X

3 UNITED STATES OF AMERICA

4 v.

05CR1311(PAC)

5 MARVIN McFOY,

6 Defendant.

7 -----X

8 New York, NY  
8 April 17, 2008  
9 3:30 p.m.

10 Before:

11 HON. PAUL A. CROTTY

12 District Judge

13 APPEARANCES

14 MICHAEL J. GARCIA

14 United States Attorney for the  
15 Southern District of New York

15 RANDALL WADE JACKSON

16 Assistant United States Attorney

17 ROBERT M. BAUM

17 Attorney for Defendant

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22  
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24  
25 SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

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1 (Case called)

2 THE COURT: Good afternoon. I have, your response,  
3 Mr. Jackson, to the discovery demands filed by Mr. McFoy.

4 Mr. Baum, in light of the government's response, I  
5 don't think I have much to decide here.

6 MR. BAUM: No, your Honor. I didn't file a reply  
7 because I am perfectly satisfied with the government's  
8 response. Their response was that there is no confidential  
9 informant to disclose.

10 THE COURT: That takes care of discovery requests 1,  
11 6, 7, 8, 9, and 10.

12 MR. BAUM: The last piece of the government's  
13 response, they said they would comply with my request to  
14 provide transcripts three weeks in advance of trial and to  
15 provide any 404(b) evidence two weeks before trial.

16 THE COURT: They have given you the scientific tests

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17 which consist of NYPD lab reports.  
18 MR. BAUM: That's it and as far as I know there are no  
19 other tests so I am satisfied.  
20 THE COURT: Is there anything else to do today.  
21 MR. BAUM: To set a trial date.  
22 THE COURT: When do you want to go to trial.  
23 MR. BAUM: I have spoken to Mr. Jackson. We probably  
24 should make a joint request pursuant to our schedule to see if  
25 it satisfies the court. What we have discussed was --  
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1 THE COURT: He doesn't want to put words in your  
2 mouth.  
3 MR. BAUM: What we said is that because he has to  
4 transcribe tapes that are in a foreign language and are  
5 somewhat difficult to transcribe, he wants to make sure he has  
6 enough time. I am satisfied it's going to require some time.  
7 So what we are proposing is the last week in July for trial,  
8 subject to your schedule, July 28, or the week before, the 28th  
9 or the 21st.  
10 THE COURT: How long is the trial going to be.  
11 MR. BAUM: My understanding --  
12 THE COURT: Mr. Jackson, how long, how many witnesses.  
13 MR. JACKSON: This is going to be a very short trial.  
14 I expect that, I can't give a firm number right, now I am  
15 thinking 2, 3 witnesses at the most.  
16 THE COURT: A day, day and a half.  
17 MR. JACKSON: Approximately, a day for jury selection  
18 and perhaps opening statements, then another day or two of  
19 testimony and summations, so a total of 2 to 3 days.  
20 THE COURT: July 21.  
21 THE DEPUTY CLERK: 9:30 a.m.  
22 THE COURT: Yes. I have another case scheduled,  
23 criminal, United States v. Rowe. That may take a little  
24 longer. I will put in this one on the representation that's  
25 it's going to be a relatively abbreviated trial. We will put  
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1 this one first; the Rowe case will follow thereafter. What's  
2 the language that's difficult to translate.  
3 MR. BAUM: Twi.  
4 THE COURT: It's African.  
5 MR. BAUM: Yes.  
6 THE COURT: What country.  
7 MR. BAUM: Ghana.  
8 MR. JACKSON: It's Twi and also Fanti, my  
9 understanding. It depends on the calls.  
10 THE COURT: How extensive are the transcripts.  
11 MR. JACKSON: We are talking about in total several  
12 months of wire interceptions. We are paring it down to the  
13 most relevant calls, I guess. I have just been in the process  
14 of whittling that down. Also, some of the time involves the  
15 fact that I came on the case relatively recently. All in all,  
16 your Honor, we are talking about I would guess a few hours'  
17 worth of calls.  
18 THE COURT: You are working on it and you will make  
19 the stuff available to Mr. Baum. What's a convenient date for  
20 a pretrial conference if we go to trial July 21.  
21 MR. BAUM: A week before.

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22 THE DEPUTY CLERK: Monday, July 14.  
23 THE COURT: Any motions in limine.  
24 MR. BAUM: It's possible, judge, related to the  
25 conspiracy, I might make a motion in limine. I have to  
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1 research the issues. I was waiting to get the transcripts  
2 first. There are two motions I am thinking about. I may  
3 contest the transcripts, the interpretation. If that's the  
4 case, there are separate rules for that which I would be happy  
5 at the appropriate time to advise court. There are some issues  
6 about whether one word could be interpreted one way or another  
7 way.

8 The only other motion I would foresee myself making  
9 might be one that addresses the conspiracy. What happens in a  
10 conspiracy case, that's a key issue in this trial whether Mr.  
11 McFoy was part of a conspiracy. What happens in a conspiracy  
12 case, usually statements by co-defendants are admitted in  
13 advance with the knowledge that the government is going to  
14 satisfactorily demonstrate --

15 THE COURT: -- connect them up.

16 MR. BAUM: Yes. If it's a real issue, I find it helps  
17 to advise the court of what you are focusing on to determine  
18 whether or not there really is a real legal issue as to whether  
19 or not such a conspiracy existed. That might be the case here.

20 THE COURT: I certainly understand that issue. What  
21 do you do if there are different interpretations of a language  
22 which I assume is going to be critical to the outcome.

23 MR. BAUM: It may be critical. The transcript itself  
24 is not admissible; it's only admissible as an aid to the jury.  
25 What the government will probably have to do is call an

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1 interpreter to testify about the transcript and would be  
2 subject to cross-examination. I might have to call my own  
3 interpreter, then provide the jury myself with transcripts as  
4 an aid if we contest.

5 THE COURT: What's the dialect.

6 MR. BAUM: Twi.

7 THE COURT: Then a jury of 12 people good and true  
8 here in the Southern District of New York will determine what  
9 the Twi dialect means with regard to this conspiracy. That  
10 doesn't seem to be a very efficient way of resolving the  
11 problem.

12 MR. BAUM: It's also possible, I have done this in the  
13 past, where the parties can meet beforehand and agree on a  
14 transcript that's satisfactory to both of us.

15 THE COURT: I think that's a good idea, Mr. Jackson.

16 MR. JACKSON: I will definitely make every effort to  
17 accomplish that.

18 THE COURT: The only request I have, Mr. Baum, is if  
19 you are going to make motions in limine, you make them in  
20 advance of July 14 so I will have an opportunity to consider  
21 them and hopefully rule on them at the pretrial conference on  
22 the 14th. Check my individual practices. You know about the  
23 voir dire questions, preliminary instruction, any other matters  
24 you want to bring to my attention, bring them to my attention  
25 in advance so I can rule on them on the 14th. As to voir dire

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1 and requests to charge, file those by the 14th, I would  
2 appreciate it. Anything else.

3 MR. JACKSON: Your Honor, the government would request  
4 exclusion of time under the Speedy Trial Act until the trial  
5 which is scheduled for July 21. We believe the interests of  
6 the public and the defendant in a speedy trial will be  
7 outweighed by the interests of justice because of the need for  
8 the government to prepare accurate transcripts and for both  
9 parties to confer as to what procedures we will suggest to the  
10 court.

11 MR. BAUM: No objection.

12 THE COURT: For the reasons stated by Mr. Jackson, the  
13 time will be excluded between now and the trial date, July 21,  
14 2008. Anything else.

15 MR. JACKSON: Nothing, your Honor.

16 MR. BAUM: Thank you.

17 THE COURT: Thank you.

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